Calendar No. 406

101ST CONGRESS *1st Session*	SENATE	REPORT 101-215

FEDERAL COMMUNICATIONS COMMISSION AUTHORIZATION ACT OF 1989

Mr. HOLLINGS, from the Committee on Commerce, Science, and Transportation, submitted the following

REPORT

OF THE

SENATE COMMITTEE ON COMMERCE, SCIENCE, AND TRANSPORTATION

ON

S. 1022

NOVEMBER 19 (legislative day, NOVEMBER 6), 1989.—Ordered to be printed

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U.S. GOVERNMENT PRINTING OFFICE
39-010 WASHINGTON : 1989

S263-42

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NOVEMBER 19 (legislative day, NOVEMBER 6), 1989.—Ordered to be printed

Mr. HOLLINGS, from the Committee on Commerce, Science, and Transportation, submitted the following

REPORT

[To accompany S. 1022]

The Committee on Commerce, Science, and Transportation, to which was referred the bill (S. 1022) to amend the Communications Act of 1934 to provide authorization of appropriations for the Federal Communications Commission, and for other purposes, having considered the same, reports favorably thereon with an amendment in the nature of a substitute and recommends that the bill as amended do pass.

PURPOSE

The legislation authorizes appropriations for the Federal Communications Commission (FCC) of $109,831,000 for fiscal year (FY) 1990 and $119,831,000 for FY 1991. The bill also extends the FCC's travel reimbursement authority and the older persons' employment program through FY 1991, extends the authority to relocate the Hawaii Monitoring Station through FY 1992, permits the FCC to recover up to two percent of the costs incurred in the administration of its fee schedule, grants the FCC additional authority to prevent willful or malicious interference to radio communications, permits the FCC to use outside entities to prepare and administer commercial radio service examinations, extends the discretionary tariff notice-and-comment period for common carriers from 90 to 120 days, and grants the FCC additional authority to prevent the use of stolen mobile radio units or of mobile radio units employed in illegal drug transactions.

Background and Needs

The FCC is an independent regulatory agency that oversees interstate and foreign communications by wire and radio. With advances in new technologies and the opening of markets to competition, the FCC is constantly making key policy decisions that fundamentally affect the marketplace. The importance of the FCC and its actions cannot be underestimated. That is why, since 1981, the Congress has enacted legislation to establish authorization levels for the FCC. The Congress views such legislation as a way to increase its oversight of the FCC in the current dynamic environment.

AUTHORIZATION

This legislation funds the FCC at $109,831,000 for FY 1990 and $119,831,000 for FY 1991. The amount for FY 1990 is the same as that submitted by the President. It is $2 million more than the authorized level for FY 1989. This additional amount is to fund increases in compensation and benefits. The additional amount for FY 1991 is to cover the major cost of consolidating the FCC in one building in late 1991 and to increase enforcement activities.

Over the past decade, the FCC has eliminated or amended many of its regulations, lessening the need for resources in certain areas. On the other hand, the FCC has also encouraged the provision of new services and the entry of competitors to the providers of existing services. This increase in competition in communications markets has brought with it a tremendous increase in the number of applications filed with the FCC. Since the processing of these applications is of great import to the persons filing them and to the public at large, the Committee believes strongly that sufficient resources should be provided.

In addition, the bill, as reported, increases the funding level for FY 1991 by an additional $2 million over the amount included in S. 1022 as originally introduced. This amount is to be used for the sole purpose of modernizing the FCC's Electronics Emissions Test Laboratory in Laurel, MD. This laboratory was constructed in 1974. It conducts testing for the FCC's equipment authorization program and makes measurements to determine technical standards for most radio frequency equipment. The laboratory also conducts technical evaluations of new technologies to determine their spectrum efficiency and the extent to which they are compatible with other technologies. Thus, for example, before any new electronic products can be marketed in the United States, they must be tested and approved by the FCC's Laurel Laboratory to ensure that their radio emissions are below the maximum levels allowed.

Because of budgetary constraints, the FCC has not updated the equipment and expanded the operations of this laboratory. Much of the test equipment dates from the early 1970's and some from as far back as the 1940's. The staff of the laboratory has tried to find other ways to remedy these difficulties. However, there is little that can be done if the existing equipment is out of date or broken or if new equipment cannot be acquired.

The FCC's Laurel Laboratory often takes an inordinate amount of time to test and approve products and, in some instances, simply

lacks the equipment to do this job properly. With the rapid pace of innovation in this industry, this problem is especially severe. Firms cannot get their products to market on time, and the public must wait to take advantage of them. It is evident that this does not serve the public interest.

The Committee has provided $2 million for modernizing this laboratory. With this amount, the FCC can greatly improve its testing and certification process. The Committee recognizes that the FCC may require additional funds to acquire certain additional pieces of equipment, and will work with the FCC to increase future authorization levels where necessary. Innovation in the communications industry can produce significant economic growth but only if the products can get to the market. The Committee believes a modern laboratory will pay for itself many times over.

Finally, the bill as reported includes a provision permitting the FCC to recover up to two percent of the costs incurred in administering and enforcing the fee schedule (Section 8 of the Communications Act). Since 1987, the FCC has had to move funds from other programs to pay for this cost. Many of these other programs, however, are short on resources and cannot spare any funding. In general, the FCC has a great need for increased resources, especially so that it can more expeditiously process applications and more actively monitor radio interference. The Committee, therefore, believes that the FCC should be able to recover the costs incurred in running the fee program. The Committee believes the two percent limit should enable the FCC to recover, at a minimum, the majority of its costs while ensuring the program is operated efficiently.

TRAVEL REIMBURSEMENT

In 1982, Congress first authorized the FCC to accept payment from outside parties as reimbursement for the business-related travel of FCC employees. Congress believed that it was important for FCC employees to discuss the FCC's program with people outside of Washington, DC, but realized that the FCC's budget was insufficient to cover such valid travel. Congress, therefore, believed that outside parties should be able to reimburse the FCC for such travel under certain conditions. Since such a program has the potential for abuse, a key condition was that Congress would reauthorize it periodically. The most recent reauthorization, passed in 1988, extended the program until the end of 1989.

The legislation reauthorizes the travel reimbursement program until the end of FY 1991. The Committee has reviewed all travel reimbursed and finds no reason to question the FCC's implementation of the program. The Committee cautions the FCC to continue its close oversight to ensure no abuses occur.

OLDER AMERICANS PROGRAM

In the FCC Authorization Act of 1988, Congress included a provision permitting the FCC to initiate a two-year test program to negotiate the hiring of older Americans to assist in technical and administrative work on FCC projects related to the implementation, promotion, or enforcement of regulations. The Congress believed that these older Americans can provide valuable assistance to the

FCC, especially in these times of tight budgets. Because of budgetary constraints, the FCC has not made use of this program. The Committee believes that this program is of sufficient importance for the FCC to test its value. Because of the increased levels of funding the FCC is to receive, the Committee expects the FCC to make use of this authority.

HAWAII MONITORING STATION

The FCC operates a network of 14 monitoring facilities equipped with long-range radio direction finders in the continental United States, Alaska, Hawaii, and Puerto Rico. These facilities are used in enforcing the FCC's radio spectrum allocations and the accompanying laws, rules, and regulations. Because of this important role, each facility must be located so as to avoid interference.

The FCC established a monitoring station at Waipahu, Oahu, in 1948. This site is located about 11 miles from Honolulu, where the major television transmitters are located, and has proven virtually ideal for monitoring transmissions and interference. For many years, the FCC has tried to preserve this environment by requiring that broadcast facilities locate away from this monitoring station and restrict their transmissions. While this solution worked for many years, the Honolulu area has grown tremendously, and with that growth, there has been a great increase in the number of radio and television stations operating at higher power. The result is that monitoring operations at Waipahu have been hindered.

Recently, the City of Honolulu adopted land use requirements that will eventually force all broadcast licensees out of the city. Most, if not all, of the viable transmission sites are near Waipahu. The effect of this will be to render the Waipahu monitoring station useless by the mid-1990's.

Because of the importance of this monitoring activity, it will be necessary to relocate the Waipahu station. In the FCC Authorization Act of 1988, the Congress included a provision permitting the FCC to move the Waipahu monitoring station to a more suitable location. Because of the great increase in the value of the land at Waipahu, any move should not cost the Government any money, and may, in fact, make money for the Government

The Committee extends by two years the FCC's authority to relocate this monitoring facility. We continue to believe this move is required because of interference levels. The Committee expects the FCC to identify a new site for the monitoring station as rapidly as possible and to determine the cost. The Committee also expects the FCC to work with the General Services Administration (GSA) to obtain a prompt appraisal of the Waipahu site and to identify alternative uses of this site by Federal and State agencies.

Finally, the Committee also takes note of the fact that in May 1989 foreign investors purchased surplus military reservation land in Honolulu harbor despite clear indications by the State of Hawaii that it needed the land and would condemn it if purchased by others. Because the Waipahu monitoring station occupies a strategic location in the center of Pearl Harbor, the Committee is concerned that this property not be sold to a party whose interests run counter to those of the United States or the State of Hawaii. The

Committee expects the FCC to follow this directive and to ensure that the sale of the FCC's current site is in the national interest. To satisfy the Committee's concern about this issue, the FCC should inform the Committee and the State of Hawaii of the prospective purchaser of the monitoring station property prior to the completion of the sale. If the FCC believes further Congressional direction is required on this matter, Members of the Committee are prepared to offer the necessary statutory amendment.

COMMERCIAL RADIO OPERATOR EXAMINATIONS

Because of budgetary constraints, Congress authorized the FCC to use outside entities to prepare and administer examinations for amateur radio service operator licenses (Section 4(f)(4) of the Communications Act). The reported bill would give the FCC similar authority for the commercial radio services. The FCC has issued a Notice of Inquiry on this matter, and the public comments have overwhelmingly supported the delegation to outside entities with proper FCC oversight. Parties commented that outside entities could update examinations more frequently and could offer the examinations more often at a greater number of sites. Currently, the FCC only administers the examinations four times a year in those cities with a FCC field office. It is estimated that this proivision will save the FCC approximately $40,000 annually.

The Committee expects the FCC to use this authority and to act promptly to adopt the necessary regulations. Further, the Committee expects the FCC to include in such regulations provisions necessary to ensure that any fees recovered by outside entities reflect costs incurred and that ourside entities provide the FCC with sufficient documentation of those costs. The FCC also shall ensure that examinations thoroughly test commercial radio operator candidates on all statutory and regulatory duties and that these examinations are revised periodically to reflect the introduction of new technology.

Finally, certain educational entities currently provide private testing of Radio Officers and Radio Electronics Officers. These examinations test many skills, including the ability to maintain and repair component level communications and navigation equipment aboard U.S. flag vessels. The FCC should review the testing operations of these entities to determine how they can be best used to meet the requirements of this provision.

TARIFF NOTICE PERIOD

The Communications Act (Section 203(b)) provides for a 90-day maximum notice period for tariff filings by common carriers. This notice period is intended to give the FCC time to review the tariff for compliance with the Act and the FCC's rules before it takes effect. The reported bill increases this period to 120 days. Over the past decade, the FCC has experienced a tremendous increase in tariff filings. A major reason has been the advent of access charge tariff filings by, or on behalf of, all local telephone companies, which require the staff to examine multiple tariff filings simultaneously. The FCC has found that in such instances the 90-day re-

quirement imposes severe burdens on the staff and on interested outside parties.

This problem, caused principally by access tariff filings, is expected to increase in severity. By way of background, although each of the approximately 1,400 local telephone carriers may file its own access tariff, the National Exchange Carriers Association (NECA) filed a single tariff on behalf of most of the carriers in the initial access tariff filing in 1984. In addition, the differences between the few individual tariffs filed and the NECA tariff were limited. In each year since 1984, however, more carriers have chosen to file individually, and the contents of these filings differ more each year. In addition, the FCC's recent decisions to permit small telephone companies to file individual tariffs and to begin carrier common line depooling should increase the number and kind of individual tariffs filed. All of these factors together could greatly strain FCC resources and the ability of interested parties to participate in FCC proceedings.

The reported bill permits the FCC to use the extra 30 days for any tariff filing. The Committee has no reason to believe that the FCC will employ this extra time unreasonably. The Committee wishes to make it clear, however, that this extra time should be principally employed for access tariff filings, and that the FCC should not extend the notice period for other filings unless it demonstrates why other tariffs should receive this added review. Finally, the FCC should give carriers adequate time to respond to a decision to extend the review period. Access charge tariffs take many months to prepare, and it would not be reasonable for the FCC to decide, for example, on January 1st to move an April 1st filing deadline forward by 30 days.

This extension of the tariff notice period has no effect on the time limitations imposed by the FCC Authorization Act of 1988 on the FCC's investigations of tariffs and complaints. Those time limitations take effect only after a tariff becomes effective. This extension of the notice period applies only before a tariff takes effect.

AMATEUR RADIO SERVICE RECIPROCAL PERMITS

Sections 303(l)(3) and 310(c) of the Communications Act authorize the FCC to "permit an alien licensed by his government as an amateur radio operator to operate his amateur radio station licensed by his government in the United States . . . provided there is in effect a bilateral agreement between the United States and the alien's government for such operation on a reciprocal basis by United States amateur radio operators." In August 1987, the Inter-American Telecommunications Conference adopted the Inter-American Amateur Radio Service Convention ("Lima Convention"). While this convention is bilateral in effect, it is a multilateral instrument. It thus may not fit within the language of the current statute, although it certainly fits within the statute's intent. The reported bill remedies this problem by adding language to specify that multilateral agreements are also covered by the two sections of the Communications Act.

WILLFUL OR MALICIOUS INTERFERENCE

During the past several years, there has been a substantial increase in willful or malicious interference to radio communications. The FCC has indicated that this is a particular problem for such services as amateur, maritime, and citizens band radio. The FCC also has received complaints about deliberate and malicious interference to public safety radio services, which has jeopardized the life-saving activities of police and fire departments. From evidence presented to the Committee, it is clear that certain individuals have interfered with radio communications by intentional jamming, repeated interruptions, and the use and transmission of whistles, tapes, records, or other types of noisemaking devices.

The Communications Act does not now contain a general statutory prohibition against willful or malicious interference. The FCC instead relies upon the more limited prohibition in section 303(m)(1)(E) which gives the FCC the authority to suspend a license upon sufficient proof that the licensee has willfully or maliciously interfered with radio communications. The FCC is also able to rely upon specific rules and regulations prohibiting interference to certain services. In sum, the FCC today can revoke or suspend licenses in serious cases and can issue monetary forfeitures in less serious cases. There are, however, various problems with its authority: (1) revocation or suspension has no meaning for non-licensees engaging in interference; (2) the FCC must conclude a complete administrative proceeding prior to halting the interference; and (3) the monetary forfeitures are too small to be a sufficient deterrent. (It should also be noted that the resources of the U.S. Attorney's offices are limited, and it is difficult to convince a U.S. Attorney to prosecute someone under the current statute with its weak penalties.)

The reported bill remedies this situation by giving the FCC the explicit authority to halt willful or malicious interference and by making any violations of this law subject to more severe penalties (section 501 of the Communications Act). Individuals who willfully or maliciously interfere will now be subject to fines up to $10,000 or imprisonment up to one year, or both, for a first offense (a misdemeanor). For repeated offenses, imprisonment may be up to two years. These fines may be increased up to $100,000 for a first offense and $250,000 for repeated offenses pursuant to the Sentencing Reform Act of 1984. Finally, this provision permits the FCC, in serious instances, to seek immediate criminal prosecution by the U.S. Attorney and seizure of the offending radio equipment by U.S. Marshals.

The provision in the reported bill also applies to interference to Federal Government radio communications. Interference to these communications is now covered by 18 U.S.C. 1362. The inclusion of this new provision will provide the FCC with a stronger basis for investigating and seeking prosecution of interference complaints by Federal agencies.

MOBILE RADIO SERVICE

Last Congress, the Chairman and Ranking Member of the Committee asked the FCC to determine the extent of the FCC's author-

ity to order public and private mobile radio licensees to discontinue service to individuals with stolen mobile units or those using mobile units to conduct illegal drug transactions. The FCC concluded that it may be able to use its general public interest authority in this area but that it was not certain that a court would agree. The reported bill explicitly gives the FCC this authority. Prior to ordering a licensee to discontinue service, the FCC can obtain a judicial determination that there is probable cause to believe the mobile unit is being employed in illegal drug transactions or other determination that the individual does not lawfully possess the unit. In addition, the licensee must give the user reasonable notice that service is to be discontinued.

Legislative History

S. 1022 was introduced on May 17, 1989, by Senator Inouye. This legislation provided for the funding of the FCC for FYs 1990 and 1991, for the extension of the travel reimbursement program and the older persons' employment program until the end of FY 1991, and for the extension of the FCC's authority to relocate the Hawaii monitoring station until the end of FY 1992. The Communications Subcommittee held a hearing on the reauthorization of the FCC. The Chairman of the FCC, Dennis Patrick, was the sole witness. On October 5, 1989, without objection, the Committee ordered the bill to be reported favorably, adopting an amendment in the nature of a substitute. This amendment included the original provisions of S. 1022 and added a series of new provisions:

1. Increasing the authorization level for FY 1991 by $2 million to modernize the FCC's testing and certification laboratory in Laurel, MD;
2. Permitting the FCC to recover up to two percent of the costs incurred in the administration of its fee schedule;
3. Granting the FCC additional authority to prevent willful or malicious interference to radio communications;
4. Permitting the FCC to use outside entities to prepare and administer commercial radio service examinations;
5. Extending the discretionary tariff notice and comment period for common carriers from 90 to 120 days; and
6. Granting the FCC additional authority to prevent the use of stolen mobile radio units or of mobile radio units employed in illegal drug transactions.

Summary of Major Provisions

Section 2 authorizes funding for the FCC for FYs 1990 and 1991 and permits the FCC to recover up to two percent of the cost incurred in administering fee schedule.

Section 3 permits the FCC to use outside entities to prepare and administer commercial radio operator examinations.

Section 4 extends the travel reimbursement program until the end of FY 1991.

Section 5 extends the older persons' employment program until the end of FY 1991.

Section 6 extends the FCC's authority to relocate the Hawaii monitoring station to the end of FY 1992.

Section 7 provides the FCC with the authority to extend the tariff notice period to 120 days.

Section 8 extends the amateur radio service reciprocal permit provision to include multilateral agreements.

Section 9 gives the FCC the additional authority to halt willful or malicious interference.

Section 10 gives the FCC explicit authority to order mobile radio licensees to discontinue service to individuals illegally possessing mobile units or employing such units in illegal drug transactions.

ESTIMATED COSTS

In accordance with paragraph 11(a) of rule XXVI of the Standing Rules of the Senate and section 403 of the Congressional Budget Act of 1974, the Committee provides the following cost estimate, prepared by the Congressional Budget Office:

U.S. CONGRESS,
CONGRESSIONAL BUDGET OFFICE,
Washington, DC, October 13, 1989.

Hon. ERNEST F. HOLLINGS,
Chairman, Committee on Commerce, Science, and Transportation, U.S. Senate, Washington, DC.

DEAR M. CHAIRMAN: The Congressional Budget Office has prepared the attached cost estimate for S. 1022, the Federal Communication Authorization Act of 1989.

If you wish further details on this estimate, we will be pleased to provide them.

Sincerely,

ROBERT D. REISCHAUER
Director.

CONGRESSIONAL BUDGET OFFICE COST ESTIMATE

1. Bill Number: S. 1022.

2. Bill Title: Federal Communications Commission Authorization Act of 1989.

3. Bill Status: As ordered reported by the Senate Committee on Commerce, Science, and Transportation, October 5, 1989.

4. Bill Purpose: S. 1022 would authorize the appropriation of $109.8 million for fiscal year 1990 and $119.8 million for fiscal year 1991 to carry out the programs of the Federal Communications Commission (FCC). The bill would authorize additional funds for fiscal years 1990 and 1991 for increases in salary, pay, and other employee benefits as authorized by law. In addition, S. 1022 would permit the FCC to use up to two percent of fees collected to defray the costs of collecting the fees. The bill also makes a number of changes to FCC policies and procedures.

Total budget authority for fiscal year 1989 was $100.4 million. The President requested a 1990 appropriation of $109.8 million, the same amount as in the bill.

5. Estimated Cost to the Federal Government:

[By fiscal year, in millions of dollars]

	1990	1991	1992	1993	1994
Direct Spending:					
Estimated budget authority	0.5	0.5	0.5	0.5	0.5
Estimated outlays	.5	.5	.5	.5	.5
Authorizations:					
Specified (function 370)	109.8	119.8			
Estimated (function 920)	2.0	3.5			
Total estimated authorization	111.8	123.3			
Estimated outlays	105.2	122.7	7.2		

The costs of this bill fall primarily within budget function 370.

Basis of estimate: For the purposes of this estimate, it was assumed that the full amounts authorized would be appropriated for each fiscal year. The increases for salary, pay, and other employee benefits authorized by law in 1990 and 1991 are estimated consistent with the assumptions of the Concurrent Resolution on the Budget for Fiscal Year 1990 (H.Con.Res. 106). The estimate of outlays reflects historical spending patterns for the ongoing activities of the FCC.

The estimate of direct spending assumes that the FCC would use two percent of fee income to defray the costs of collecting such fees. The fees are expected to total about $25 million each year. As a result, the FCC would have additional spending authority of about $500,000 annually for administrative expenses.

6. Estimated cost to State and local governments: None.

7. Estimate comparison: None.

8. Previous CBO estimate: None.

9. Estimate prepared by: Douglas Criscitello.

10. Estimate approved by: James L. Blum, Assistant Director for Budget Analysis.

Regulatory Impact Statement

In accordance with paragraph 11(b) of rule XXVI of the Standing Rules of the Senate, the Committee provides the following evaluation of the regulatory impact of the legislation.

S. 1022, as reported, contains two major sets of provisions. The first set extends the current authorization and several existing programs. By providing adequate funding for the FCC, this legislation should benefit those already covered under the law seeking licenses, modifications of licenses, or other assistance from the FCC. Further, the modernization of the Laurel Laboratory will aid businesses requiring prompt testing and certification by the FCC. In sum, this first set of provisions should not impact the number of types of persons or businesses covered, nor have economic impact, nor affect personal privacy, nor increase paperwork. Rather, these provisions will continue the existing regulatory scheme.

The second set of provisions either clarifies or gives the FCC additional authority. For example, the provision preventing willful or malicious interfernce is largely a clarification of existing authority that will improve use of the spectrum by licensees because it will make enforcement easier. Enforcement also will be enhanced

under the provision dealing with stolen mobile radio units, an area where problems have increased and the FCC's jurisdication is not clear. The provision allowing the use of outside entities to prepare and administer commercial radio operator examinations will lessen direct FCC involvement and the costs incurred by use of these resources. In addition, it will improve the radio operator examination process by permitting more frequent and better tests at additional locations. These provisions should have no impact upon the number and types of persons affected by regulation, no economic impact on consumers or businesses, no impact on the personal privacy of individuals, and no additional paperwork except to the extent of the FCC's additional enforcement of the public interest.

Section-by-Section Analysis

SECTION 1.—SHORT TITLE

This section provides that the legislation may be cited as "FCC Authorization Act of 1989."

SECTION 2.—AUTHORIZATION OF APPROPRIATIONS

This section amends Section 6 of the Communications Act to authorize funding of $109,831,000 for FY 1990 and $119,831,000 for FY 1991 together with such sums as may be necessary for increases resulting from adjustments in salary, pay, retirement, other employee benefits required by law, and other nondiscretionary costs. The Committee intends that $2,000,000 of the amount authorized for FY 1991 is to be used to modernize the FCC's testing and certification laboratory in Laurel, Maryland. This section also permits the FCC to recover up to two percent of the cost incurred in administering the fee schedule.

SECTION 3.—COMMERCIAL RADIO OPERATOR EXAMINATION

This section adds a new paragraph(5) to section 4(f) of the Communications Act to permit the FCC to use outside entities to prepare and administer commercial radio operator examinations. New paragraph (5)(A) gives the FCC the authority to use outside entities so long as the FCC determines them qualified. This paragraph also provides that these outside entities may not receive compensation for their services. However, they may recover from examinees such fees as the FCC permits, considering such factors as public service and cost estimates. As noted previously in this report, the FCC's regulations should require that these cost estimates bear a close relation to the costs actually incurred and that sufficient documentation on these costs is provided to the FCC.

New paragraph (5)(B) provides the FCC with explicit authority to develop regulations to govern examinations by outside entities. New paragraph (5)(C) provides that these outside entities, by reason of providing these examinations, shall not be considered a Federal or special government employee.

SECTION 4.—TRAVEL REIMBURSEMENT PROGRAM

This section amends Section 4(g)(2)(0) of the Communications Act to extend the travel reimbursement program until the end of FY 1991.

SECTION 5.—COMMUNICATIONS SUPPORT FROM OLDER AMERICANS

This section amends Section 6(a) of the FCC Authorization Act of 1988 to extend through FY 1991 the program permitting the FCC to make grants to, or enter into cooperative agreements with, private non-profit organizations to use the talents of older persons.

SECTION 6.—HAWAII MONITORING STATION

This section amends Sections 9(a) and (e) of the Authorization Act of 1988 to extend through FY 1992 the FCC's authority to relocate the Hawaii monitoring station.

SECTION 7.—TARIFF NOTICE PERIOD

This section amends Section 203(b)(1) and (2) of the Communications Act to provide the FCC with the authority to extend the tariff notice period from 90 to 120 days.

SECTION 8.—AMATEUR RADIO SERVICE RECIPROCAL PERMITS

This section amends Section 303 (1)(3) and 310(c) of the Communications Act to extend the amateur radio service reciprocal permit provision to include multilateral agreements.

SECTION 9.—WILLFUL OR MALICIOUS INTERFERENCE

This section adds a new Section 333 to Part I of title III of the Communications Act to give the FCC the additional authority to halt willful or malicious interference by explicitly prohibiting any person from so interferring.

SECTION 10.—MOBILE RADIO SERVICE

This section adds a new Section 334 to Part I of title III of the Communications Act, as amended by Section 9 of the reported bill, to give the FCC explicit authority to order mobile radio licensees to discontinue service to individuals illegally possessing mobile units or employing such units in illegal drug transactions. Subsection (a) of new section 334 provides that when a licensee is notified in writing by a Federal, State, or local law enforcement agency that such agency has obtained a judicial determination that there is probable cause to believe a mobile unit is being used for illegal drug activities, the licensee, after giving reasonable notice to the subscriber, shall discontinue service to that mobile unit. The licensee shall not be subject to damages or to any civil or criminal penalty or forfeiture if the licensee discontinues service according to this provision. Subsection (b) of new section 334 provides that when a licensee is notified in writing of a determination by a Federal, State, or local court or administrative body that a person is now lawfully in possession of a mobile unit through which the licensee is providing service, the licensee, after giving reasonable notice to the subscriber, shall discontinue or refuse service to that person. Again, the li-

censee shall not be subject to damages or to any civil or criminal penalty or forfeiture if the licensee discontinues or refuses service according to this provision. Finally, subsection (c) of new section 334 provides that nothing in subsection (a) or (b) shall prejudice the right of any person affected by a discontinuance or refusal of service to secure a determination in a Federal court or a State or local tribunal or agency that service should not be discontinued or refused.

CHANGES IN EXISTING LAW

In compliance with paragraph 12 of rule XXVI of the Standing Rules of the Senate, changes in existing law made by the bill, as reported, are shown as follows (existing law proposed to be omitted is enclosed in black brackets, new material is printed in italic, existing law in which no change is proposed is shown in roman):

COMMUNICATIONS ACT OF 1934

Section 4 of that Act

PROVISIONS RELATING TO THE COMMISSION

SEC. 4.(a) * * *
(b) through (e) * * *
(f)(1) * * *
(2) through (4) * * *
(5)(A) The Commission, for purposes of preparing and administering any examination for a commercial radio operator license or endorsement, may accept and employ the services of persons that the Commission determines to be qualified. Any person so employed may not receive compensation for such services, but may recover from examinees such fees as the Commission permits, considering such factors as public service and cost estimates submitted by such person.
(B) The Commission may prescribe regulations to select, oversee, sanction, and dismiss any person authorized under this paragraph to be employed by the Commission.
(C) Any person who provides services under this paragraph or who provides goods in connection with such services shall not, by reason of having provided such service or goods, be considered a Federal or special government employee.
(g)(1) * * *
(2)(A) * * *
(B) through (C) * * *
(D) The provisions of this paragraph shall cease to have any force or effect at the end of fiscal year [1989] *1991.*
(E) * * *
(h) through (o) * * *

Section 6 of that Act

[AUTHORIZATION OF APPROPRIATIONS

[SEC. 6. There are authorized to be appropriated for the administration of this Act by the Commission $107,250,000 for fiscal year 1988 and $109,250,000 for fiscal year 1989, together with such sums

as may be necessary for increases resulting from adjustments in salary, pay, retirement, other employee benefits required by law, and other nondiscretionary costs, for each of the fiscal years 1988 and 1989.]

AUTHORIZATION OF APPROPRIATIONS

SEC. 6.(a) There are authorized to be appropriated for the administration of this Act by the Commission $109,831,000 for fiscal year 1990 and $119,831,000 for fiscal year 1991, together with such sums as may be necessary for increases resulting from adjustments in salary, pay, retirement, other employee benefits required by law, and other nondiscretionary costs, for each of the fiscal years 1990 and 1991.

(b) In addition to the amounts authorized to be appropriated under this section, not more than 2 percent of the amount of any fees or other charges payable to the United States which are collected by the Commission shall be available to the Commission until expended to defray the fully distributed costs of such fees collection.

Section 203 of that Act

SCHEDULE OF CHARGES

SEC. 203.(a) * * *

(b)(1) No change shall be made in the charges, classifications, regulations, or practices which have been so filed and published except after [ninety days notice] *120 days notice* to the Commission and to the public, which shall be published in such form and contain such information as the Commission may by regulations prescribe.

(2) The Commission may, in its discretion and for good cause shown, modify any requirement made by or under the authority of this section either in particular instances or by general order applicable to special circumstances or conditions except that the Commission may not require the notice period specified in paragraph (1) to be more than [ninety days] *120 days*.

(c) through (e) * * *

Part I of Title III of that Act

TITLE III—PROVISIONS RELATING TO RADIO

PART I—GENERAL PROVISIONS

SECS. 301 through 302 * * *

GENERAL POWERS OF COMMISSION

SEC. 303. Except as otherwise provided in this Act, the Commission from time to time, as public convenience, interest, or necessity requires shall—

(a) through (k) * * *

(*l*)(1) Have the authority to prescribe the qualifications of station operators, to classify them according to the duties to be performed, to fix the forms of such licenses, and to issue them to persons who are found to be qualified by the Commission and who otherwise are legally eligible for employment in the United States, except that

such requirement relating to eligibility for employment in the United States shall not apply in the case of licenses issued by the Commission to (A) persons holding United States pilot certificates; or (B) persons holding foreign aircraft pilot certificates which are valid in the United States, if the foreign government involved has entered into a reciprocal agreement under which such foreign government does not impose any similar requirement relating to eligibility for employment upon citizens of the United States;[70]

(2) Notwithstanding paragraph (1) of this subsection, an individual to whom a radio station is licensed under the provisions of this Act may be issued an operator's license to operate that station.

(3) In addition to amateur operator licenses which the Commission may issue to aliens pursuant to paragraph (2) of this subsection, and notwithstanding section 301 of this Act and paragraph (1) of this subsection, the Commission may issue authorizations, under such conditions and terms as it may prescribe, to permit an alien licensed by his government as an amateur radio operator to operate his amateur radio station licensed by his government in the United States, its possessions, and the Commonwealth of Puerto Rico provided there is in effect a [bilateral agreement between the United States and the alien's government] *multilateral or bilateral agreement, to which the United States and the alien's government are parties,* for such operation on a reciprocal basis by United States amateur radio operators. Other provisions of this Act and of the Administrative Procedure Act shall not be applicable to any request or application for or modification, suspension or cancellation of any such authorization.

(m) through (t) * * *

SECS. 304 through 309 * * *

LIMITATION ON HOLDING AND TRANSFER OF LICENSES

SEC. 310.(a) * * *

(b) * * *

(c) In addition to amateur station licenses which the Commission may issue to aliens pursuant to this Act, the Commission may issue authorizations, under such conditions and terms as it may prescribe, to permit an alien licensed by his government as an amateur radio operator to operate his amateur radio station licensed by his government in the United States, its possessions, and the Commonwealth of Puerto Rico provided there is in effect a [bilateral agreement between the United States and the alien's government] *multilateral or bilateral agreement, to which the United States and the alien's government are parties,* for such operation on a reciprocal basis by United States amateur radio operators. Other provisions of this Act and of the Administrative Procedure Act shall not be applicable to any request or application for or modification, suspension, or cancellation of any such authorization.

(d) through (e) * * *

SECS. 311 through 332 * * *

WILLFUL OR MALICIOUS INTERFERENCE

SEC. 333. No person shall willfully or maliciously interfere with or cause interference to any radio communications of any station li-

censed or authorized by or under this Act or operated by the United States Government.

MOBILE RADIO SERVICE

SEC. 334. (a) When any public or private mobile radio services licensee is notified in writing by a Federal, State, or local law enforcement agency, acting within its jurisdiction, that such agency has obtained a judicial determination that there is probable cause to believe that a mobile radio unit is being used by any individual for the purpose of transmitting or receiving information in connection with the manufacture, distribution, importation, exportation, or sale of a controlled substance in violation of Federal, State, or local law, the licensee shall, after reasonable notice to the subscriber, discontinue service to the mobile radio unit being used by such individual. The licensee shall not be subject to damages or to any civil or criminal penalty or forfeiture for discontinuing such service.

(b) When a public or private mobile radio services licensee obtains notification in writing of a determination by a Federal, State, or local court or administrative body, acting in accordance with its jurisdiction and authority, that a person receiving, or seeking to receive, mobile radio service from the licensee is not lawfully in possession of the mobile radio unit through which service is or would be provided, the licensee shall, after reasonable notice to the subscriber, discontinue service or refuse service to such person. The licensee shall not be subject to damages or to any civil or criminal penalty or forfeiture for discontinuing or refusing such service.

(c) Nothing in subsection (a) or (b) shall be deemed to prejudice the right of any person affected thereby to secure an appropriate determination, as otherwise provided by law, in a Federal court or a State or local tribunal or agency, that mobile radio service to such person should not be discontinued or refused or should be restored.

FEDERAL COMMUNICATIONS COMMISSION AUTHORIZATION ACT OF 1988

Section 6 of that Act

OLDER AMERICANS PROGRAM

SEC. 6. (a) During fiscal years 1988 [and 1989], *1989, 1990, and 1991,* the Federal Communications Commission is authorized to make grants to, or enter into cooperative agreements with, private nonprofit organizations to utilize the talents of older Americans in programs authorized by other provisions of law administered by the Commission (and consistent with such provisions of law) in providing technical and administrative assistance for projects related to the implementation, promotion, or enforcement of the regulations of the Commission.

(b) through (e) * * *

Section 9 of that Act

HAWAII MONITORING STATION

SEC. 9. (a) The Federal Communications Commission is authorized to expend such funds as may be required in fiscal years 1989 [and 1990], *1990, 1991, and 1992,* out of its appropriations for such fiscal years, to relocate within the State of Hawaii the Hawaii Monitoring Station presently located in Honolulu (Waipahu), including all necessary expenses for—

(1) acquisition of real property;

(2) options to purchase real property;

(3) architectural and engineering services;

(4) construction of a facility at the new location;

(5) transportation of equipment and personnel;

(6) lease-back of real property and related personal property at the present location of the Monitoring Station pending acquisition of real property and construction of a facility at a new location; and

(7) the re-establishment, if warranted by the circumstances, of a downtown office to serve the residents of Honolulu.

(b) through (d) * * *

(e) The Federal Communications Commission and the General Services Administration shall not take any action under this section committing any funds disposing of any property in connection with the relocation of the Hawaii Monitoring Station until—

(1) the Chairman of the Commission and the Administrator of General Services have jointly prepared and submitted, to the Committee on Appropriations, the Committee on Commerce, Science, and Transportation, and the Committee on Governmental Affairs of the Senate, and the Committee on Appropriations, the Committee on Energy and Commerce, and the Committee on Government Operations of the House of Representatives, a letter or other document setting forth in detail the plan and procedures for such relocation which will reasonably carry out, in an expeditious manner, the provisions of this section but will not disrupt or defer any programs or regulatory activities of the Commission or adversely affect any employee of the Commission (other than those at the Monitoring Station who may be required to transfer to another location) through the use of appropriations for the Commission [, in fiscal years 1989 and 1990]; and

(2) at least 30 calendar days have passed since the receipt of such document by such committees.

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